

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RAYMOND WARE, CIVIL NO. 04-00671 HG/LEK
Plaintiff,

vs.

SIDNEY HAYAKAWA,
Director of
Transportation Security
Administration -
Honolulu, KEN KAMAHELE,
Deputy Director,
Transportation Security
Administration -
Honolulu;
TRANSPORTATION SECURITY
ADMINISTRATION; THOMAS
J. RIDGE, Secretary,
Department of Homeland
Security; DEPARTMENT OF
HOMELAND SECURITY; JOHN
DOES 2-5,

Defendants.

DEPOSITION OF KENNETH KAMAHELE

Taken on behalf of Plaintiff, at the Offices of
Miyata Reporting Services, 1188 Bishop Street, Suite
2712, Honolulu, Hawaii, commencing at 9:00 a.m., on
Tuesday, December 19, 2006, pursuant to notice.

BEFORE: Wendy Tomita, CSR 165
Notary Public, State of Hawaii

I N D E X

EXAMINATION BY:	PAGE
Ms. Barbee	5
Mr. Helper	92

EXHIBITS MARKED FOR IDENTIFICATION:

1	Memorandum To: Ali Screeners	39
	From: Kenneth Kamahele, AFSD For	
	Screening, Subject: Promotions and	
	Hiring's, 2 pages	
2	August 26, 2003 memo	47
	To: Transportation Security	
	Administration, From: Tom Ward	
	Re: Screening Manager, 1 page	
3	September 12, 2003 memo	58
	To: Raymond Ware, From: Sidney	
	A. Hayakawa, Re: Screening	
	Manager Position at HNL, 1 page	
4	9-8-03 letter To: Sidney Hayakawa	58
	From: Raymond Ware, Re: Screening	
	Manager Positions, 1 page	
5	Memo To: Johnalyn Abreu	62
	From: Raymond Ware, Re: Meeting	
	on October 2, 2003, 2 pages	
6	October 3, 2003 memo To: Ken	65
	Kahamele, From: Raymond E. Ware	
	Re: Meeting on October 2, 2003	
	1 page	

APPEARANCES:

For Plaintiff:

DAPHNE E. BARBEE, ESQ.
Suite 1909, Century Square
1188 Bishop Street
Honolulu, Hawaii 96813

For Defendants:

THOMAS A. HELPER, ESQ.
Assistant U.S. Attorney
Room 6-100, PJKK Federal Building
300 Ala Moana Boulevard
Honolulu, Hawaii 96850-6100

For Ken Kamahele:

CHRISTOPHER J. COLE, ESQ.
McCorriston Miller Mukai MacKinnon
Five Waterfront Plaza, 4th Floor
500 Ala Moana Boulevard
Honolulu, Hawaii 96813

For TSA:

EUGENE B. WHITAKER, ESQ.
TSA Counsel
300 Rodgers Boulevard, #300
Honolulu, Hawaii 96718

7	Transportation Security	66
	Administration, General Counseling	
	Form for Ware, Raymond, 2 pages	
8	Performance Agreement for	67
	Supervisory Transportation Security	
	Screeners for Ware, Raymond E.,	
	4 pages	
9	November 14, 2003 memo To:	76
	Raymond Ware, From: Kenneth	
	Kamahele, Subject: Notice of	
	Proposed Removal for Failure to	
	Re-Certify, 2 pages	
10	Document entitled "Honolulu	86
	Management Inquiry Team Notes,	
	3 pages	
11	Document entitled "Meeting with	92
	Raymond Ware on October 2, 2003,"	
	1 page	

<p>21</p> <p>1 A. When TSA took over, Sidney started working 2 at the airport for TSA and he would come up to our 3 Friday meetings. We have a security meeting every 4 Friday at the airport. So because I was with 5 security at Akal Security, I would attend this 6 meeting, and that's when I saw Sidney again. 7 Q. And? 8 A. Then at one point during one of the 9 meetings, he had asked me to step downstairs to his 10 office after the meeting, and at that time is when 11 we, he conducted the interview. 12 Q. Would it be fair to describe then that you 13 were recruited for the position? 14 MR. HELPER: Objection. Calls for 15 speculation. 16 A. No. 17 Q. (Ms. Barbee): You said that Sidney 18 Hayakawa asked you to step downstairs to his office. 19 A. Yes. 20 Q. Had you applied for the position? 21 A. Yes. 22 Q. How did you find out about the position? 23 A. Online. It was the buzz of the airport. 24 When TSA was coming, everybody wanted to apply. 25 Q. So the interview with Mr. Hayakawa wasn't</p>	<p>23</p> <p>1 Q. What other duties did you have? 2 MR. HELPER: Other than what he's already 3 testified about? 4 A. Other than what I testified? That's a 5 tough one, because in the beginning, it was really 6 difficult in the beginning. We had to insure that 7 the screeners coming on board that were being hired 8 were all trained so that they could be independent 9 of themselves and not have a monitor with them, so 10 that took us an awful long time. We had -- the 11 beginning was called mobile screeners. M-o-b-i-l-e. 12 And they were charged with training all of the new 13 recruit screeners coming out of class. 14 We had a total of 18 mobile screeners 15 responsible for training 750 screeners, of which 16 each screener needed approximately 60 hours of 17 registered training under the auspice of a mobile 18 screener, so it was very difficult. 19 Q. (Ms. Barbee): All right. Regarding the 20 mobile screeners, was Mr. Ware a mobile screener? 21 A. I'm not sure of that. It was so long ago. 22 I'm not positive about that. He might have been. 23 He might have been but I'm just not positive. 24 Q. You weren't the person that hired Mr. Ware, 25 right?</p>
<p>22</p> <p>1 prearranged, he just asked you to step downstairs to 2 his office? 3 A. Yes. 4 Q. Would that be correct? 5 A. Uh-huh, yes. 6 Q. It wasn't as though someone called you and 7 said oh, on this date we want to interview you for 8 the position? 9 A. No. 10 Q. How long did the interview take? 11 A. About 30, 40 minutes. 12 Q. Anybody else present at the interview? 13 A. No. 14 Q. You recall what date it was? 15 A. No. 16 Q. Okay. 17 A. I can tell you it was on a Friday. 18 Q. Oh, good. Okay. All right. In the year 19 2002, right? 20 A. Yes. 21 Q. Going back to your job duties as the deputy 22 director, you described them as making sure 23 screeners followed all policies and procedures. 24 Your duties also included promotion at first, right? 25 A. Yes.</p>	<p>24</p> <p>1 A. No. 2 Q. But your understanding is that mobile 3 screeners were responsible for training all of the 4 new recruits, right? 5 A. Yes. 6 Q. You say that you were responsible to make 7 sure that the screeners were trained. What sort of 8 training was there? 9 MR. HELPER: Objection. Again misstates 10 his testimony. 11 A. Every screener must have been certified ir 12 five or six different disciplines within the check 13 point and it's the mobile screener's responsibility 14 to insure that the allotted time needed for each of 15 these disciplines, which totaled 60 hours, was 16 registered by the hour. 17 Q. (Ms. Barbee): Did you conduct the 18 trainings or did the mobile screeners do the 19 training? 20 A. The mobile screeners did the training. 21 Q. Did you yourself receive any training? 22 MR. HELPER: Objection. Asked and 23 answered, overbroad. 24 A. No. 25 Q. (Ms. Barbee): You may answer even though</p>

<p>1 he's objecting.</p> <p>2 A. No.</p> <p>3 Q. Were you also in charge of discipline?</p> <p>4 MR. HELPER: Objection. Overbroad.</p> <p>5 Q. (Ms. Barbee): You may answer.</p> <p>6 A. In the beginning, yes.</p> <p>7 Q. Was there an actual position description</p> <p>8 for your job, a written position description?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have that?</p> <p>11 A. No.</p> <p>12 Q. Would that be in the locked cabinets at the</p> <p>13 airport?</p> <p>14 A. I'm not sure if it's locked but it's at the</p> <p>15 airport.</p> <p>16 Q. In a cabinet. Okay.</p> <p>17 With respect to promotions, were you the</p> <p>18 person in charge of promotions at TSA in 2002 and</p> <p>19 2003?</p> <p>20 MR. HELPER: Objection. Overbroad.</p> <p>21 A. I'm sorry, you're going to have to rephrase</p> <p>22 that question.</p> <p>23 Q. (Ms. Barbee): Right. In 2002 and 2003</p> <p>24 were you the individual in charge of promotions?</p> <p>25 MR. HELPER: Same objections.</p>	<p>25</p> <p>1 A. Not so much picked them, but I would go out</p> <p>2 and try and find individuals that would like to work</p> <p>3 with TSA and then have them submit their resumes</p> <p>4 through NCS Pearson.</p> <p>5 Q. (Ms. Barbee): Were all the screening</p> <p>6 managers, did all of them have to go through NCS</p> <p>7 Pearson?</p> <p>8 A. No.</p> <p>9 Q. When did that stop, the screening managers</p> <p>10 that didn't have to go through NCS Pearson?</p> <p>11 A. Oh, in the beginning, the first six</p> <p>12 managers that came over to me, came over to me from</p> <p>13 the FAA side, federal aviation. They were aviation</p> <p>14 security inspectors, ASI's. They're on what's</p> <p>15 called "not-to-exceed-one-year positions," of which</p> <p>16 it was going to be over shortly.</p> <p>17 Their one year was going to be -- it was</p> <p>18 going to end shortly. So they came to me and asked</p> <p>19 if they could work at TSA side. So I brought them</p> <p>20 over cause they were already employees, and they</p> <p>21 started working for TSA on a not-to-exceed-two-year</p> <p>22 positions.</p> <p>23 Q. Do you recall the year that you brought</p> <p>24 them over to TSA?</p> <p>25 A. Between, I'm going to say November of 2002</p>
<p>26</p> <p>1 A. I don't know what you mean by "in charge."</p> <p>2 Q. (Ms. Barbee): All right. Part of your job</p> <p>3 duties you indicated at first is promotions.</p> <p>4 A. Yes.</p> <p>5 Q. Why don't you tell me what you mean by</p> <p>6 promotions?</p> <p>7 A. Okay. As positions became available, it</p> <p>8 would be part of my job to fill these positions.</p> <p>9 And if it's a promotion, then it's a promotion. If</p> <p>10 it's not, then it's through hiring, it's through</p> <p>11 hiring.</p> <p>12 Q. Were you also in charge of hiring new</p> <p>13 people?</p> <p>14 MR. HELPER: Objection. "In charge of" is</p> <p>15 vague.</p> <p>16 A. For management positions, yes. Not so much</p> <p>17 the hiring. You know, the process is kind of</p> <p>18 defined. They have to go out and qualify before</p> <p>19 they can receive a position with TSA. So TSA</p> <p>20 contracted a company, NCS Pearson to do all the HR</p> <p>21 work and hiring.</p> <p>22 Q. (Ms. Barbee): With regards to screening</p> <p>23 managers, were you the person who picked the</p> <p>24 screening managers?</p> <p>25 MR. HELPER: Objection. Overbroad.</p>	<p>28</p> <p>1 and April of 2003.</p> <p>2 MR. HELPER: Stretch my legs.</p> <p>3 Q. (Ms. Barbee): When you say you brought</p> <p>4 them over, what do you mean? Did you recruit them?</p> <p>5 Or why don't you tell me what you meant.</p> <p>6 A. Well, their positions as ASI's were going</p> <p>7 to be over shortly, and when they came to me in</p> <p>8 hopes of continuing their federal employment, so I</p> <p>9 brought them over from the FAA side to TSA. I</p> <p>10 brought them over and not-to-exceed-two-year</p> <p>11 positions.</p> <p>12 Q. You say they came to you. Would you</p> <p>13 describe how they came to you?</p> <p>14 A. Each of them came for an interview with me.</p> <p>15 Q. How did they know to come to an interview?</p> <p>16 A. I talked to their immediate supervisor,</p> <p>17 Jeanette Bean.</p> <p>18 Q. Could you spell the name, please?</p> <p>19 A. J-e-a-n-e-t-t-e, Bean is B-e-a-n. And she</p> <p>20 is, she was their supervisor and she was the one</p> <p>21 that told me that their positions were going to end</p> <p>22 shortly, and if I had any use for them or if I could</p> <p>23 use them on my side, you know, if I would take them</p> <p>24 under consideration. So I asked her to send her</p> <p>25 people to me so that I could at least interview them</p>

<p>29</p> <p>1 first and talk to them for a little while.</p> <p>2 Q. What does an ASI do?</p> <p>3 A. They govern the airlines.</p> <p>4 Q. In what way?</p> <p>5 A. They make sure that the airlines is in</p> <p>6 compliance with all their rules and regulations with</p> <p>7 passenger screening and baggage.</p> <p>8 Q. Do they do passenger screening?</p> <p>9 A. No.</p> <p>10 MR. HELPER: Object. Vague as to time.</p> <p>11 Phrasing it in the present tense.</p> <p>12 Q. (Ms. Barbee): At the time you hired the</p> <p>13 six former ASI's, did they do passenger screening?</p> <p>14 A. No.</p> <p>15 Q. Did they do baggage screening?</p> <p>16 A. No.</p> <p>17 Q. And these six former ASI's were hired as</p> <p>18 screening managers?</p> <p>19 A. Yes.</p> <p>20 Q. What does a screening manager do?</p> <p>21 A. Oversee the screening operations for check</p> <p>22 points.</p> <p>23 Q. Do screening managers get certified?</p> <p>24 A. No.</p> <p>25 Q. Are they paid more than the screeners?</p>	<p>31</p> <p>1 at a time. So the first two came over to me in mid</p> <p>2 October.</p> <p>3 Q. (Ms. Barbee): Of what year?</p> <p>4 A. 2002. And then the rest came before the</p> <p>5 end of, I want to say December of 2002.</p> <p>6 Q. Did you have another occasion to hire</p> <p>7 screening managers after December 2002?</p> <p>8 A. There was an exigency as we started our</p> <p>9 roll out, I want to say this is in like June, I</p> <p>10 think, June of 2003, where I opened positions for</p> <p>11 six additional screening managers, and these</p> <p>12 positions were not to exceed two years also.</p> <p>13 Q. You mentioned roll out, what is roll out?</p> <p>14 A. The roll out is when TSA first started,</p> <p>15 when we took over the airport from contracted</p> <p>16 screeners and we started our roll out in October of</p> <p>17 2002.</p> <p>18 Q. Do you know who the screeners were</p> <p>19 previously, the contracted screeners, the name of</p> <p>20 the agency?</p> <p>21 A. No, I forget.</p> <p>22 MR. HELPER: Let me object. Vague as to</p> <p>23 time. Previously to what?</p> <p>24 Q. (Ms. Barbee): Before TSA took over.</p> <p>25 A. I forget.</p>
<p>30</p> <p>1 A. Yes.</p> <p>2 Can I clarify something?</p> <p>3 Q. Yes. Go ahead.</p> <p>4 A. Depending on how you were hired through NCS</p> <p>5 Pearson, you could be hired as a supervisor.</p> <p>6 Depending on your pay outside, when you come inside,</p> <p>7 I mean, you can get paid -- there's a possibility</p> <p>8 that you could be a supervisor, making more money</p> <p>9 than a screening manager, because the pay band has a</p> <p>10 low end and a high end to it. See. So sometimes</p> <p>11 the supervisor can come in at its high end and the</p> <p>12 manager can come in at the low end and a screening</p> <p>13 supervisor can be making more than the manager.</p> <p>14 Q. Do you recall the names of these six former</p> <p>15 ASI's?</p> <p>16 A. Michael Moniz, M-o-n-i-z, Liz Haneberg,</p> <p>17 H-a-n-e-b-e-r-g, Robin Wong, Joe Collins, Miles</p> <p>18 Kasahara. How many is that?</p> <p>19 Q. Five.</p> <p>20 A. I can't recall the last one.</p> <p>21 Q. Do you recall when they were hired?</p> <p>22 MR. HELPER: Objection. Asked and</p> <p>23 answered.</p> <p>24 A. Somewhere between the time of -- See, they</p> <p>25 came to me not all at once. They came sporadic, two</p>	<p>32</p> <p>1 Q. You worked there at Akal, do you know some</p> <p>2 of the screeners?</p> <p>3 A. Not personally.</p> <p>4 Q. And you don't recall or you don't know who</p> <p>5 had the job as screen?</p> <p>6 A. The company there?</p> <p>7 Q. Yes.</p> <p>8 A. No, I can't recall.</p> <p>9 Q. In June in 2003 you say you opened</p> <p>10 positions for six additional screening managers,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. Did you have to get authority to open these</p> <p>14 positions?</p> <p>15 A. I sat with the FSDA, Sidney Hayakawa and</p> <p>16 the deputy at that time, Stanford Miyamoto, and I</p> <p>17 explained to them that the present six that I have</p> <p>18 were working 12 hour shifts, seven days a week</p> <p>19 during the roll out time, and that I needed to get</p> <p>20 them some relief. So rather than -- We couldn't</p> <p>21 open for permanent positions because we didn't have</p> <p>22 permanent positions available, so we had to open up</p> <p>23 for not-to-exceed-two-year positions until a</p> <p>24 permanent position became available. So discussing</p> <p>25 this with the FSD and the deputy, the three of us</p>

33

1 decided that it was in our best interest to get
2 relief as soon as possible, so we opened up this
3 not-to-exceed-two-year positions.

4 Q. Did you get approval from Washington to
5 open up these positions?

6 A. Yes.

7 Q. Who did you get approval from?

8 A. Oh, you would have to go through our HR to
9 find that out. I have no idea. I wouldn't contact
10 Washington for that.

11 Q. How do you know you got approval?

12 A. It was the only way that we were able to
13 open up the position.

14 Q. You said you'd have to go through HR to
15 find that information?

16 A. You would have to go through HR.

17 Q. Who at HR?

18 A. She's not with HR now, but Johnalyn
19 Abreu-Nakamura would have that information.

20 Q. What was her position at TSA while you
21 worked there?

22 A. At that time she was the AFSD for
23 operations. AFSD, Assistant Federal Security
24 Director.

25 Q. You mentioned a Deputy Stanford Miyamoto?

34

1 A. Yes.

2 Q. Was he above you in rank?

3 A. He was my immediate supervisor.

4 Q. And what was your job title?

5 A. I was the Assistant Federal Security
6 Director for screening.

7 Q. Do you know when Washington D.C. approved
8 opening the six positions for screening manager?

9 A. No.

10 Q. Who would have handled the, obtaining the
11 approval from Washington D.C.?

12 A. I believe it's going to be Johnalyn
13 Abreu-Nakamura.

14 Q. All right. And once these positions were
15 opened up, what happened with the six positions, did
16 you hire people?

17 A. Well, no, I don't hire. So I did contact
18 several people within the airlines and law
19 enforcement and asked them to submit their resumes
20 through NCS Pearson to see if they could get
21 themselves qualified. And so NCS Pearson then sends
22 us a list of individuals who meet the qualifications
23 and we choose from the list.

24 Q. Who did you contact?

25 A. Personally I contacted Adam Meyers. Wait,

35

1 now. I'm sorry, Adam was contacted by Liz Haneberg,
2 I think. The managers went out and contacted people
3 from the airlines, and I contacted those law
4 enforcement people that I thought was qualified. I
5 contacted Danny Cappel, C-a-p-p-o, Mark Himenez,
6 H-i-m-e-n-e-z, Billy Waters, Ed Morin, M-o-r-i-n. I
7 believe that's it. Those are the ones that I
8 contacted personally.

9 Q. Warren Kadokawa?

10 A. Oh, I'm sorry. Warren Kadokawa.

11 Q. How did you know Warren Kadokawa?

12 A. Warren use to work for me at Akal Security.

13 Q. In what capacity did he work for you?

14 A. He was one of the field supervisors.

15 Q. Were you his supervisor?

16 A. I wasn't his immediate supervisor.

17 Q. Were you above him in rank?

18 A. Yes.

19 Q. How did you know Ed Morin?

20 A. Ed Morin worked at the airport for -- at
21 the time he was working for Akal Security.

22 Q. What did he do at Akal?

23 A. He was with the canine unit.

24 Q. Did you know him when he worked for Akal?

25 A. Yes.

36

1 Q. Did he work under you at Akal?

2 A. Their program came under me, but I was like
3 his third line supervisor.

4 Q. How about Billy Waters?

5 A. Billy Waters worked at the airport. He was
6 a prior HPD.

7 Q. Did you know him when he worked at HPD?

8 A. Not really. I mean only as an
9 acquaintance.

10 Q. How is it that you went out and spoke to
11 him about this position?

12 A. I thought he would be qualified. I thought
13 he was qualified.

14 Q. You said that he worked at the airport
15 before. What was his position? Was this Akal also?

16 A. He was with Akal Security also, yes.

17 Q. What was his position at Akal Security?

18 A. He was an employee, I mean, security guard.

19 Q. Had he had screening experience?

20 A. No.

21 Q. Had Warren Kadokawa had screening
22 experience?

23 A. No.

24 Q. Did Ed Morin have screening experience?

25 A. No.

37

1 Q. Mark Himenez, how did you know him?

2 **A. He was also at Akal Security and ex HPD, so**

3 **he had law enforcement background.**

4 Q. What did he do at Akal Security?

5 **A. He handled contracts for Akal Security.**

6 Q. Were you his supervisor?

7 **A. Yes.**

8 Q. Did he have screening experience?

9 **A. No.**

10 Q. And how did you know Danny Cappel?

11 **A. Danny is ex HPD also, and Danny was in**

12 **charge of HR at Akal Security at the airport.**

13 Q. Did he work under you?

14 **A. Yes.**

15 Q. Did he have screening experience?

16 **A. No.**

17 Q. Did William Waters become certified in

18 screening?

19 **A. No. As managers, it's not a requirement to**

20 **be a certified screener.**

21 MR. HELPER: Can we go off the record for a

22 second?

23 MS. BARBEE: Do you need a break? Maybe

24 we'll take a break.

25 (Recess taken.)

38

1 MS. BARBEE: We're back on the record.

2 Q. What race is William K. Waters?

3 **A. I'm not sure.**

4 Q. Is he African American?

5 **A. No.**

6 Q. What about Adam Meyers, what race is he?

7 **A. Caucasian, I think.**

8 Q. He's not African American?

9 **A. No.**

10 Q. What about Mr. Edward Morin, you know his

11 race?

12 **A. No.**

13 Q. Is he African American?

14 **A. Not that I know of.**

15 Q. What about Warren Kadokawa?

16 **A. Asian.**

17 Q. Not African American?

18 **A. Not that I know of.**

19 Q. What about Mr. Mark C. Himenez?

20 **A. Not sure.**

21 Q. Is he African American?

22 **A. Not that I know of.**

23 Q. And Danny Cappel?

24 **A. Filipino.**

25 Q. As a result of selecting these six persons,

39

1 were there complaints, to your knowledge?

2 **A. To my knowledge?**

3 Q. Yes.

4 **A. To my knowledge, no.**

5 Q. Did you conduct interviews before selecting

6 these six people as screening managers?

7 **A. No.**

8 Q. Do you know if anybody at TSA Honolulu

9 interviewed these six people before they were hired

10 as screening managers?

11 **A. I don't know.**

12 Q. I'm going to show you a document.

13 **A. I'm sorry, can we go back to your question?**

14 Q. About the complaints?

15 **A. The interviews.**

16 Q. Go ahead. Yes, sure.

17 **A. I need to be a little bit more -- I**

18 **understood you to say, ask, if I conducted any**

19 **interviews with these six individuals before hiring.**

20 Q. Yes.

21 **A. Before hiring?**

22 Q. Yes.

23 **A. No, not before hiring.**

24 **(Exhibit 1 was marked for identification.)**

25 Q. I'm going to show you an exhibit marked as

40

1 Exhibit 1. This one.

2 I didn't know you guys were coming.

3 MR. COLE: That's okay.

4 MS. BARBEE: Sorry.

5 MR. COLE: That's okay.

6 Q. (Ms. Barbree): It's an undated two-page

7 memo. It says it's from Kenneth Kamahele.

8 First of all, do you recognize Exhibit 1?

9 **A. Yes.**

10 Q. Do you recall when this memo was written?

11 **A. No.**

12 Q. Was it after the six persons were hired in

13 June 2003 for screening manager?

14 **A. Can I take some time to read this?**

15 Q. Sure.

16 **A. Okay.**

17 Q. You've finished reading that?

18 **A. Yes.**

19 Q. Did you have someone type that memorandum

20 for you?

21 **A. No, I believe I typed it myself.**

22 Q. Do you recall when you typed it?

23 **A. No.**

24 Q. Was it before hiring these six screening

25 managers or after of June of 2003?

41

1 **A. I don't recall.**

2 Q. In the memo you say you're writing it to
3 dispel rumors with regards to promotions and hiring.

4 **A. Yes.**

5 Q. What sort of rumors did you hear that made
6 you write this memo?

7 **A. I've explained it here in the third**
8 **paragraph, that managers were coming to me and**
9 **telling me that screeners and -- were complaining**
10 **about other screeners that had been promoted into**
11 **lead positions and supervisory positions, which was**
12 **not true. They did not receive any promotions at**
13 **that time. Our promotion processes were not**
14 **available.**

15 **So these people that were actually placed**
16 **in these positions were in acting positions and**
17 **weren't receiving any pay for this. They weren't**
18 **being compensated. And that's the rumor that I**
19 **wanted to dispel.**

20 Q. So would you acknowledge then that there
21 were complaints with regards to, amongst screeners
22 with regards to promotion opportunities?

23 **A. At the lead and supervisory positions, yes.**

24 Q. You mentioned promotion processes were not
25 available at the time. What time was this?

42

1 **A. From roll out date of October, through -- I**
2 **want to say, October 2002, till almost the end of**
3 **2003.**

4 Q. And so while you were working at TSA up
5 until end of 2003, there were no promotions
6 available for screeners?

7 **A. No, not during that timeframe.**

8 Q. Wouldn't a promotion be available for a
9 screener who wanted to be a screening manager?

10 **A. During the same timeframe?**

11 Q. Right.

12 **A. No.**

13 Q. So no screener could be a screening
14 manager?

15 **A. Not at that time.**

16 Q. Why not?

17 **A. Competition wasn't opened.**

18 Q. But in August 2003 weren't screeners
19 promoted to be screening managers?

20 **A. August of 2003?**

21 Q. Yes.

22 **A. Towards the end of 2003, yes. Our**
23 **promotional processes were made available, yes.**

24 Q. Weren't three individuals promoted in
25 August 2003 from screening supervisors to screening

43

1 managers at TSA?

2 **A. Yes.**

3 Q. Who were these three?

4 **A. Charlie Dubois, Leo Ventura, Leonard**
5 **Ventura, and I don't recall the third one.**

6 Q. Jose Abrante?

7 **A. Jose Abrante.**

8 Q. In your memo, going back to the memo, you
9 state that "All eligible employees will be given the
10 opportunity to apply for higher-level positions when
11 the official guidelines are published."

12 When were official guidelines published?

13 **A. I'm not sure.**

14 Q. Whose duty was it to know when the official
15 guidelines were published?

16 **A. The individual. The individuals. They**
17 **would have to keep checking the website.**

18 Q. So it's up to the people who want
19 promotions to check the website to see if there's
20 promotion opportunities?

21 **A. When it would open up on a website, it**
22 **would be HR's responsibility to post it on the**
23 **bulletin boards for the screeners, and then the**
24 **screeners can go on the website and apply, see if**
25 **they can get themselves qualified.**

44

1 Q. Going back to the six persons who were
2 hired in June 2003, is Adam Meyers still working
3 there as a screening manager for TSA?

4 **A. I believe so.**

5 Q. And is Danny Cappel still working there as a
6 screening manager at TSA?

7 MR. HELPER: Let me object, have a running
8 objection. Lacks foundation. He's not there
9 anymore. Can I have a running objection then,
10 counsel?

11 MS. BARBEE: Oh, yeah.

12 **A. No.**

13 Q. Is Mr. Himenez still working --

14 **A. No.**

15 Q. -- as screening manager? What about
16 William Waters, Billy Waters, is he still working as
17 a screening manager?

18 **A. I believe so. I'm not sure.**

19 Q. How about Mr. Ed Morin?

20 **A. I believe so.**

21 Q. Ms. Liz Haneberg?

22 **A. I believe so. I haven't been to work in**
23 **like almost five months. I'm not sure.**

24 Q. I know. Well, at the time you left were
25 they still working?

1 **A. At the time I left they were still there,**
2 **yes.**

3 Q. And Warren Kadokawa?

4 **A. Yes.**

5 Q. And were the screening manager positions
6 which they filled in June 2003 made permanent?

7 **A. Yes.**

8 Q. When were they made permanent?

9 **A. I can't recall the exact date.**

10 Q. Was it before you left?

11 **A. Yes.**

12 Q. Was it in 2004?

13 **A. It might have been towards the end of 2003,**
14 **in the beginning or middle of 2004, around that**
15 **time.**

16 Q. Before selecting the six individuals in
17 June of 2003 for screening manager positions, had
18 screeners been told that there was going to be six
19 vacancies for screening manager?

20 **A. I don't believe so.**

21 Q. After June 2003 there came a time when
22 there were other promotions to screening manager,
23 other vacancies for screening managers at TSA,
24 right?

25 **A. After?**

1 screening manager position, do they have to be
2 certified?

3 **A. As a screener?**

4 Q. Certified, right.

5 **A. No.**

6 Q. Did they, in the August 2003 vacancies for
7 screening manager, did these candidates have to go
8 through NCS Pearson?

9 **A. I'm not sure.**

10 Q. Did you interview candidates for the
11 position in August 2003, position of screening
12 manager?

13 **A. I don't recall.**

14 **(Exhibit 2 was marked for identification.)**

15 Q. I'll show you Exhibit 2. Have you seen
16 Exhibit 2 before?

17 **A. I signed it, dated it. Yes.**

18 Q. What date did you sign it?

19 **A. August 29 of '03.**

20 Q. And although the names are blacked out or
21 whited out or both, it's indicated that Raymond Ware
22 applied for the position screening manager, correct?

23 **A. Yes.**

24 Q. He was not selected, right?

25 **A. No.**

1 Q. June 2003.

2 **A. I believe so, yes.**

3 Q. Were screeners notified about these vacant
4 positions for screening manager?

5 **A. I'm not sure.**

6 Q. Whose job, whose responsibility would it
7 have been to inform screeners about the vacancies
8 for screening manager?

9 MR. HELPER: Objection. Overbroad, vague.

10 **A. Well, like I explained, when we had open**
11 **competition, once we receive the paperwork for that,**
12 **we'd post it and the screeners are responsible for**
13 **going online themselves to apply.**

14 Q. When you say you'd post it, where do you
15 post it?

16 MR. HELPER: Objection. Assumes that he
17 posts it. That's not in evidence.

18 **A. There are two bulletin boards, one at the**
19 **interisland terminal and another one at the overseas**
20 **terminal.**

21 Q. (Ms. Barbee): Do you recall whether or not
22 these screening manager vacancies in August 2003
23 were posted on the bulletin boards?

24 **A. I'm not sure.**

25 Q. Before a candidate is considered for the

1 Q. The three people who were selected were not
2 African American, correct?

3 **A. At the time I believe one to be.**

4 Q. Which one?

5 **A. Jose Abrante.**

6 Q. You see it says "Selectee 1 - Hispanic"?

7 **A. Yes.**

8 Q. Do you know who Jose Abrante is?

9 **A. Yes, I know him.**

10 Q. Where did you believe he was from?

11 **A. From?**

12 Q. Uh-huh.

13 **A. I don't know where he was from.**

14 Q. Okay. You know, in your, I believe it's
15 either your interrogatory or declaration, you stated
16 that you thought Jose Abrante was from Jamaica?

17 MR. HELPER: Objection. Misstates what he
18 said in the declaration.

19 Q. (Ms. Barbee): Is that true?

20 **A. I had learned later that he was from**
21 **Jamaica, yes.**

22 Q. Who did you learn that from?

23 **A. I'm not sure.**

24 Q. Would it surprise you to learn he's not
25 from Jamaica?

<p>49</p> <p>1 A. I don't know where he's from. I mean I 2 thought he was from Jamaica. Someone told me and I 3 forget who it was. 4 Q. On this form -- By the way, I notice that 5 there's a, looks like a heavy print. Did you, on 6 this form, did you do these heavy prints? 7 A. No. 8 Q. And on this form it's indicated the race of 9 the various people who were selected, correct? 10 A. Well, the names are blanked out, but I 11 think it's correct. 12 Q. Do you know who wrote the races of these 13 people? 14 A. No. 15 Q. Who selected the three people who became 16 screening manager? 17 A. I did. 18 Q. Did you interview Raymond Ware for the 19 position of screening manager in 2003? 20 A. I don't believe I did. 21 Q. Did you interview Jose Abrante for the 22 position of screening manager? 23 A. Yes. 24 Q. Was anybody with you besides Mr. Abrante 25 during the interview process?</p>	<p>51</p> <p>1 time to bring it up. 2 I explained to them that they would have to 3 be working maybe seven days a week if had to, but 4 there was a job to do and if they were interested, 5 the position was available for them, so. 6 Q. You mentioned that they were on the 7 qualification list. What is the qualification list? 8 A. It's this. I'm sorry. Certification list. 9 Q. And how does a person get on that 10 certification list? 11 A. They would have to go through the 12 contractor. I'm not sure if it was NCS Pearson at 13 this time. We changed HR contractors sometime and 14 I'm not sure when it was. 15 Q. Do you recall who you changed it from after 16 NCS Pearson? 17 A. You know, I don't know who the present 18 contractor is. 19 Q. Do you know what the process is to become 20 certified, to get on the certification list? 21 A. No. 22 Q. With regards to Leo Ventura, you also spoke 23 with him? 24 A. Yes. 25 Q. And do you recall how long your talk was</p>
<p>50</p> <p>1 A. I can't recall. 2 Q. How long did the interview take with Jose 3 Abrante? 4 A. I'm not sure. 5 Q. The same would be for the other person? 6 A. Charlie Dubois? 7 Q. Yes, Charlie Dubois. Did you interview 8 Charlie Dubois? 9 A. I did talk to him, yes. 10 Q. Do you recall how long the interview was? 11 A. I'm not sure. 12 MR. HELPER: Objection. He didn't say he 13 interviewed him. He talked to him. 14 Q. (Ms. Barbee): Did you not interview him? 15 A. Well, I talked to all three. If you want 16 to call it an interview, I mean, but I did talk to 17 all three on a selection. 18 Q. When you say "talked to all three," what do 19 you mean? 20 A. I called them into my office and we talked. 21 I'm not sure if anybody was there, but I talked to 22 each of them, telling them that they were on the 23 qualification list and that it was my decision to 24 select them for the position, and if they had any 25 problems or any concerns at that time, would be the</p>	<p>52</p> <p>1 with Mr. Ventura? 2 A. I don't recall how long. 3 Q. Mr. Dubois was a prior HPD officer? 4 A. Yes, he was. 5 Q. Did you know him when he worked for HPD? 6 A. No. 7 Q. Did you know him before he worked for TSA? 8 A. Yes. 9 Q. How did you know him? 10 A. He was working at Akal Security. 11 Q. And what was his position at Akal Security? 12 A. I believe he was one of the field 13 supervisors. 14 Q. Were you his supervisor? 15 A. I was his second line supervisor. 16 Q. Did you know Leo Ventura before he began to 17 work for TSA? 18 A. No. 19 Q. Did you know Jose Abrante before he worked 20 for TSA? 21 A. No. 22 Q. In addition to the positions of screening 23 manager in June 2003 and August 2003, was there a 24 system at TSA where you would have supervisor 25 screeners become rotating managers?</p>

53

1 **A. Acting, yes.**

2 Q. Would you describe that?

3 **A. We use supervisors in acting positions for**
4 **a period of anywhere between two to maybe five**
5 **months, and then they would be rotated back to the**
6 **check points and we would rotate other screener**
7 **supervisors into these positions. And this is to**
8 **give them a feel for what a manager does, and it**
9 **affords management the opportunity to see what**
10 **skills they have as managers.**

11 Q. Was this an opportunity for management to
12 evaluate how good they would perform if they became
13 screening manager?

14 **A. I would say yes to that.**

15 Q. Was Mr. Ware ever placed in the rotating
16 manager position?

17 **A. No.**

18 Q. Who decided which supervisor screeners
19 would be placed in the rotating manager position?

20 **A. It would be my overall decision. I would**
21 **have the final decision to say. But it was**
22 **discussed mainly amongst the screening managers,**
23 **because they work with the supervisors on a daily**
24 **basis and are more aware than I am of their**
25 **tendencies.**

54

1 Q. You probably don't remember this but I'll
2 ask anyways. How many screening supervisor's were
3 there in 2003 at TSA?

4 **A. 2003?**

5 Q. Yes.

6 **A. I'm not sure. Maybe about 20.**

7 Q. Of the 20 supervisor screeners, how many
8 were placed in rotating manager positions?

9 **A. Anywhere between three, maybe four. Three,**
10 **maybe, I want to say three. Between three and four,**
11 **I guess. Depending on the work that needed to be**
12 **done.**

13 Q. Were the rotating screening managers, the
14 acting rotating screening managers paid more?

15 **A. No.**

16 Q. Do you recall the names of those three or
17 four persons that were rotating managers?

18 **A. No.**

19 Q. Who would decide where a screening
20 supervisor would be, which gate they would be
21 managing?

22 **A. What checkpoint you're talking about?**

23 Q. Right.

24 **A. It's up to the managers.**

25 Q. Did you ask that Mr. Ware be placed at

55

1 checkpoint number five, Hawaiian Airlines?

2 **A. Checkpoint number five is actually at the**
3 **overseas terminal.**

4 Q. Did you ask that Mr. Ware be placed near
5 the Hawaiian Airlines checkpoint?

6 **A. I recall that we had a problem with a**
7 **supervisor at Hawaiian checkpoint, which we**
8 **ultimately needed to move a supervisor. So I left**
9 **it up to the managers to find a replacement and the**
10 **managers were trying to find volunteers for a**
11 **change.**

12 Q. You say you left it up to the managers to
13 find a replacement. Who did you leave it up to
14 specifically?

15 **A. I think it was Robin Wong who was in charge**
16 **of that area for checkpoint five, and I believe Liz**
17 **Haneberg from overseas -- I mean interisland**
18 **terminal.**

19 Q. You mentioned Robin Wong was in charge of
20 checkpoint five. So checkpoint five is not Hawaiian
21 Airlines?

22 **A. No. It's in a different terminal.**

23 Q. Who was in charge of the Hawaiian Airlines,
24 which manager was in charge?

25 **A. You know, I'm not sure. It may have been**

56

1 **either Liz Haneberg or it could have been Leo**
2 **Ventura. I'm not sure.**

3 Q. Do you recall, did you ask that Mr. Ware be
4 transferred to Hawaiian Airlines checkpoint?

5 **A. No.**

6 Q. Do you know who asked Mr. Ware?

7 **A. No.**

8 Q. To be in charge of Hawaiian Airlines
9 checkpoint?

10 **A. No, I don't.**

11 MR. HELPER: Objection. Let's me object.
12 Assumes facts not in evidence. Move to strike.

13 MS. BARBEE: He said no, he didn't know.
14 You don't want him to strike it. Okay.

15 Q. All right. Were you aware that Mr. Ware
16 wanted to be promoted to screening manager?

17 MR. HELPER: Objection. Vague as to time.

18 **A. During what time?**

19 Q. (Ms. Barbee): Throughout your time there
20 at TSA.

21 **A. There was a point in time that I was aware**
22 **of it, yes.**

23 Q. How many times did you meet Mr. Ware in
24 2002?

25 **A. I can't recall that.**

<p>57</p> <p>1 Q. In 2003 how many times did you meet 2 Mr. Ware?</p> <p>3 A. When you say "meet," what is your 4 definition of "meet"?</p> <p>5 Q. Talk to him.</p> <p>6 A. Maybe more than a dozen.</p> <p>7 Q. After the selection of the six individuals 8 in June 2003 as screening managers, did you hear 9 that Mr. Ware was upset about not being considered 10 for those positions?</p> <p>11 A. I don't recall.</p> <p>12 Q. After the selection was made in August 2003 13 selecting three persons as managers, were you aware 14 that Mr. Ware was upset about not being considered?</p> <p>15 A. I can't recall that.</p> <p>16 Q. Was there a grievance procedure at TSA in 17 2003?</p> <p>18 A. For?</p> <p>19 Q. For persons who had not been selected for 20 promotion?</p> <p>21 A. No, we don't have a grievance procedure.</p> <p>22 Q. There's no union there, right?</p> <p>23 A. No.</p> <p>24 Q. Do you recall Mr. Ware attempting to meet 25 with you to discuss his concerns about not being</p>	<p>59</p> <p>1 MS. BARBEE: Yes. 2 (Exhibit 4 was marked for identification.)</p> <p>3 A. Uh-huh.</p> <p>4 Q. Do you recall receiving Exhibit 3 and 4?</p> <p>5 A. I recall receiving Exhibit 3.</p> <p>6 Q. Exhibit 3 is a memo from Sidney Hayakawa, 7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And this is addressed actually to Raymond 10 Ware; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. But it's cc'd Kenneth Kamahele?</p> <p>13 A. Right.</p> <p>14 Q. At the bottom, correct? And this memo 15 basically talks about Mr. Ware's complaint of race 16 discrimination?</p> <p>17 MR. HELPER: Objection. Document speaks 18 for itself.</p> <p>19 Q. (Ms. Barbee): Is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And it also says, "enclosed is a memo dated 22 September 8th, '03," right, the bottom portion?</p> <p>23 MR. HELPER: Same objection.</p> <p>24 A. I'm sorry. Can you?</p> <p>25 Q. (Ms. Barbee): At the bottom portion where</p>
<p>58</p> <p>1 selected for screening manager?</p> <p>2 A. Yes.</p> <p>3 Q. Did he call to make an appointment? Or how 4 did that come about?</p> <p>5 A. I believe he went to speak to Sidney 6 Hayakawa first, and there was an appointment made 7 through Johnalyn Abreu-Nakamura, at which time 8 Johnalyn and myself and Mr. Ware went into a meeting 9 and his concerns were brought forth at that time.</p> <p>10 Q. Was this meeting in October 2003?</p> <p>11 A. I cannot -- I'm not sure.</p> <p>12 Q. Before meeting with Mr. Ware, did it come 13 to your attention that he was complaining of race 14 discrimination for not being selected as screening 15 manager?</p> <p>16 A. I'm not positive about the date. I want to 17 say it's like -- it was around that time, towards 18 the end, yeah, of September -- I mean October of -- 19 it was around that time of the meeting, I think. Or 20 maybe after the meeting, shortly after. I'm not 21 really sure of the date.</p> <p>22 (Exhibit 3 was marked for identification.)</p> <p>23 Q. I'm going to show you Exhibit 3. Here we 24 go, 4.</p> <p>25 MR. HELPER: This is 4?</p>	<p>60</p> <p>1 it says "cc: Kenneth Kamahele."</p> <p>2 A. Uh-huh.</p> <p>3 Q. With 9-8-03 memo, right?</p> <p>4 A. Yes.</p> <p>5 Q. And then Exhibit 4 is a letter memo dated 6 9-8-03, right?</p> <p>7 A. Right.</p> <p>8 Q. And it's to Sidney Hayakawa from Raymond 9 Ware; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. And this is a letter saying that he has met 12 with Mr. Hayakawa to discuss race discrimination in 13 denial of promotion opportunities, right?</p> <p>14 A. Right.</p> <p>15 Q. Do you recall that this memo was attached 16 to Sidney Hayakawa's memo which he cc'd you?</p> <p>17 A. I can't recall if it was attached.</p> <p>18 Q. Do you recall seeing it before today?</p> <p>19 A. Yes.</p> <p>20 Q. Did you see it before you met with 21 Mr. Ware?</p> <p>22 A. I believe so. I'm not sure.</p> <p>23 Q. Were you asked by Mr. Hayakawa to 24 investigate Mr. Ware's complaint of discrimination?</p> <p>25 A. No.</p>

61

1 Q. Were you asked by anybody at TSA to
2 investigate Mr. Ware's complaint of discrimination?

3 **A. No.**

4 Q. Do you know why Mr. Hayakawa would send you
5 a copy of Mr. Ware's memo?

6 MR. HELPER: Well, let me object. Call for
7 speculation. Go ahead.

8 **A. The purpose for Mr. Hayakawa sending**
9 **Mr. Ware to me was to go over the promotional**
10 **processes and try to explain Mr. Ware's concerns**
11 **that he might have. As far as the promotional**
12 **process is concerned, we don't investigate racial**
13 **discrimination.**

14 Q. (Ms. Barbee): At the time of 2003, did TSA
15 have an EEO officer in Honolulu?

16 **A. I don't believe so.**

17 Q. Does it have one now?

18 **A. Not sure. I don't know.**

19 Q. You filed an EEO complaint recently --

20 **A. Yes.**

21 Q. -- with TSA. Did you have to go to someone
22 in Honolulu or did you have to go to the mainland?

23 **A. Mainland.**

24 Q. So as late as 2006, TSA still doesn't have
25 an EEO officer in Honolulu?

62

1 **A. As far as I know, no.**

2 Q. And you indicated that TSA doesn't
3 investigate race discrimination?

4 **A. Not TSA.**

5 MR. HELPER: Wait. Hang on a second.
6 Misstates his testimony. He said he didn't.

7 Q. (Ms. Barbee): Okay. Does TSA Honolulu
8 investigate race discrimination claims?

9 **A. No.**

10 Q. To your knowledge at Honolulu TSA, once
11 this complaint of Mr. Ware was in writing, at least
12 by September 8th, 2003, did anybody at Honolulu TSA,
13 to your knowledge, investigate race discrimination
14 in promotion?

15 **A. To my knowledge, no.**

16 Q. I believe you testified that you didn't
17 remember the date that you actually met with
18 Mr. Ware?

19 **A. Yes.**

20 Q. Would it refresh your recollection to see
21 any documentation about this meeting?

22 **A. Yes.**

23 MS. BARBEE: This is number 5, document
24 number 5.

25 (Exhibit 5 was marked for identification.)

63

1 Q. You've had a chance to look at document
2 number 5?

3 **A. Yes.**

4 Q. Had you seen that document before today?

5 **A. Yes.**

6 Q. And in fact it's a document from Raymond
7 Ware to Johnalyn Abreu, but it's cc'd AFSD Mr. Ken
8 Kamahele?

9 **A. Yes.**

10 Q. And in it he refers to a meeting with you
11 on October 2nd, 2003?

12 **A. Yes.**

13 Q. Does that refresh your recollection as to
14 the date of the meeting?

15 **A. Yes.**

16 Q. Was the meeting on October 2nd, 2003?

17 **A. Yes.**

18 Q. Where was the meeting at?

19 **A. I believe it was on the third floor**
20 **administration office at TSA at the interisland**
21 **terminal.**

22 Q. How long was the meeting?

23 **A. Not sure. Maybe a little more than half**
24 **hour.**

25 Q. In the meeting did Mr. Ware express his

64

1 disappointment in not being promoted?

2 **A. Yes.**

3 Q. And did he also tell you that he had filed
4 EEO complaints against TSA?

5 **A. I'm not sure if he mentioned that during**
6 **that meeting.**

7 Q. Were you aware that he had filed EEO
8 complaints against TSA before the meeting?

9 **A. From this memo that was sent by Sidney and**
10 **the attachment, yes.**

11 Q. Mr. Ware makes reference in his letter to
12 Ms. Abreu that you stated that you had a
13 disciplinary file on him?

14 **A. Well, we have disciplinary files for all**
15 **employees.**

16 Q. What did you talk about with Mr. Ware at
17 that meeting?

18 **A. He wanted to know why he wasn't chosen as a**
19 **screening manager, so I went over the, his**
20 **performance as far as complaints that I've received**
21 **through the managers about his performance at the**
22 **checkpoint as a supervisor.**

23 Q. Did he indicate to you that he was
24 surprised that this was his first time receiving any
25 complaints?

<p>1 MR. HELPER: Objection. Assumes facts not 2 in evidence. 3 A. He might have said something like that. 4 I'm not quite sure. This is a long time ago. I 5 don't recall everything that was said in there. 6 Q. (Ms. Barbee): Did he follow up with a 7 letter requesting from you a copy of his personnel 8 file? 9 A. He may have, yes. 10 (Exhibit 6 was marked for identification.) 11 Q. I'll show you Exhibit 6. You recall 12 receiving Exhibit 6 from Mr. Ware? 13 A. Yes. 14 Q. And he asked to see his personnel file, 15 right? 16 A. He would have to go through Johnalyn Abreu 17 to get it. 18 Q. Now, was this the first time you ever spoke 19 with Mr. Ware about his performance? 20 A. Yes. 21 Q. At the time you met with Mr. Ware, his 22 supervisor was Jose Abrante, right? 23 A. I'm not sure. 24 Q. Did you discuss with Mr. Abrante Mr. Ware's 25 performance?</p>	<p>65 1 (Exhibit 7 was marked for identification.) 2 Q. Let me show you Exhibit 7. Exhibit 7 is a 3 general counseling form; is that right? 4 A. Yes. 5 Q. It's not the written evaluation form, 6 correct? 7 A. No. 8 Q. And Exhibit 7 is signed by Mr. Ware on 9 September 10th, 2003, right? 10 A. Yes. 11 Q. Looking at Exhibit 7, although it says 12 "general counseling form," would you agree that 13 there's nothing on here that's negative about 14 Mr. Ware? 15 MR. HELPER: Objection. The document 16 speaks for itself. 17 A. I'm sorry? 18 Q. (Ms. Barbee): Would you agree there's 19 nothing negative about Mr. Ware on Exhibit 7? 20 A. Yes. 21 (Exhibit 8 was marked for identification.) 22 Q. And I'm going to contrast that with Exhibit 23 8. Exhibit 8 is the Performance Agreement for 24 Supervisory Transportation Security Screener, right? 25 A. Uh-huh.</p>
<p>66 1 MR. HELPER: Objection. Vague as to time. 2 A. I don't believe I did. 3 Q. (Ms. Barbee): Were you aware that 4 Mr. Abrante said that Mr. Ware was performing 5 excellently? 6 A. I have no idea. 7 Q. There are work evaluations given to 8 screeners and the supervisors, correct? 9 A. Yes. 10 Q. And these are annual evaluations? 11 A. Yes. 12 Q. Did you take a look at Mr. Ware's 13 evaluation from Mr. Abrante? 14 A. No. 15 Q. Did you contact Mr. Abrante and ask him for 16 input upon Mr. Ware's performance? 17 MR. HELPER: Objection. Vague as to time. 18 A. No. 19 Q. (Ms. Barbee): Before you met with 20 Mr. Ware, did you contact Leo Ventura and ask him to 21 do an evaluation of Mr. Ware? 22 A. Yes. 23 Q. Did he give you a written evaluation of 24 Mr. Ware? 25 A. Yes.</p>	<p>68 1 Q. Is that the usual form for evaluating -- 2 A. Yes. 3 Q. -- screeners? And if you would take the 4 time to read Exhibit 8 and let me know when you're 5 done. 6 A. Okay. 7 Q. Exhibit 8 is signed by Jose Abrante, 8 correct? 9 A. Uh-huh. 10 Q. And Jose Abrante states that Mr. Ware has 11 far exceeded all performance expectations; is that 12 right? 13 MR. HELPER: Objection. The document 14 speaks for itself. 15 Q. (Ms. Barbee): Is that right? 16 A. While he was working for Jose Abrante, yes. 17 Q. So there's nothing negative about that 18 evaluation, right? 19 A. None that I can see. 20 Q. When Mr. Ware wrote to Ms. Abreu and cc'd 21 you about his meeting of October 2nd, 2003, and it's 22 Exhibit 5. I'm sorry, Exhibit 5. 23 A. This one? 24 Q. No, no. Exhibit 5. I'm sorry. Here, I'll 25 find it for you.</p>

69

1 **A. Oh, there it is.**
 2 Q. Exhibit 5. Here you go.
 3 **A. Too many exhibits. Okay.**
 4 Q. He mentioned that he was a mobile screener
 5 and you stated that you had lost his resume?
 6 MR. HELPER: Objection. Document speaks
 7 for itself.
 8 Q. (Ms. Barbee): Is that correct?
 9 **A. His resume may have been misplaced, yes.**
 10 Q. Do you know whether he was the mobile
 11 screener?
 12 **A. I believe he was, yeah, at that time.**
 13 Q. Did you tell him that mobile screeners do
 14 things differently than the way you want them done?
 15 **A. I don't recall saying that.**
 16 Q. Did you tell Mr. Ware there were several
 17 passenger complaints?
 18 **A. Yes.**
 19 Q. Did you show him any written complaints?
 20 **A. No.**
 21 Q. Did he tell you that he had not been made
 22 aware of these complaints?
 23 **A. He might have. May I say something?**
 24 Q. Go ahead.
 25 **A. He mentions that a copy of our meeting**

70

1 **minutes were sent to him. Do you have that as an**
 2 **exhibit so that I can refer to those minutes?**
 3 Q. No, I don't have them here.
 4 MR. HELPER: No, counsel, I think these
 5 were -- those were given to me just today.
 6 MS. BARBEE: Well, it's my deposition.
 7 I'll take a copy of it.
 8 MR. HELPER: Well, I'm producing those to
 9 you.
 10 MS. BARBEE: Okay.
 11 MR. HELPER: That's my only copy.
 12 MS. BARBEE: Oh, are you going to make a
 13 copy and send it to me then?
 14 MR. HELPER: Could we go off the record a
 15 second?
 16 MS. BARBEE: I can take it downstairs after
 17 the depo to make a copy.
 18 MR. HELPER: Could we go off the record a
 19 second?
 20 MS. BARBEE: Yes.
 21 (A discussion was held off the record.)
 22 Q. (Ms. Barbee): Going back to the memo of
 23 Mr. Ware -- By the way, was this meeting ever tape
 24 recorded?
 25 **A. No.**

71

1 Q. Now, you mentioned some complaints with
 2 Mr. Ware, were these complaints over a year old?
 3 **A. I'm not sure.**
 4 Q. Did you tell Mr. Ware that there was a
 5 conspiracy going on concerning him?
 6 **A. I don't recall saying that.**
 7 Q. Did you tell him that you would investigate
 8 the entire matter and get back to him?
 9 **A. Yes.**
 10 Q. Did you meet with him again?
 11 **A. I don't think so. I don't believe I did.**
 12 Q. Before meeting with Mr. Ware in
 13 October 2003, did you have a meeting with
 14 Mr. Hayakawa concerning Mr. Ware?
 15 **A. Not that I can recall, no.**
 16 Q. Did you have a meeting with anyone
 17 concerning Mr. Ware before meeting with him in
 18 October 2003?
 19 **A. Maybe Johnalyn Abreu-Nakamura setting a**
 20 **date.**
 21 Q. Was there a meeting with Johnalyn only to
 22 set a date?
 23 **A. I believe so, yes.**
 24 Q. So nothing else was discussed between you
 25 and Johnalyn Abreu-Nakamura about Mr. Ware?

72

1 **A. No.**
 2 Q. Were there other complaints from other
 3 screeners or screening supervisors concerning the
 4 promotion to screening manager?
 5 MR. HELPER: Objection. Vague as to time.
 6 **A. Not to my knowledge.**
 7 Q. (Ms. Barbee): Did you contact Lizzet
 8 Haneberg before the October 2nd, 2003 meeting and
 9 ask her to write a statement concerning Mr. Ware?
 10 **A. I'm not sure when I contacted her, if it**
 11 **was before or after the meeting, but I did contact**
 12 **her, yes.**
 13 Q. And what did you say when you contacted
 14 her?
 15 **A. I instructed her to give me a, in writing,**
 16 **all of the complaints concerning Mr. Ware and his**
 17 **performance.**
 18 Q. And why did you want this in writing?
 19 **A. Because it wasn't in his folder.**
 20 Q. Before the October 2nd, 2003 meeting, were
 21 you shown a copy of Mr. Ware's EEO complaint? Not
 22 the memo which is Exhibit 5, but a copy of his EEO
 23 complaint.
 24 **A. No.**
 25 Q. Had anyone from the EEO office in the

1 mainland contacted you regarding Mr. Ware's
2 complaint?

3 MR. HELPER: Before?

4 Q. (Ms. Barbee): Before October 2003.

5 **A. Before October. I don't recall. I don't**
6 **think so. I just can't recall.**

7 Q. You subsequently, you were contacted by
8 someone from the EEO?

9 **A. Subsequently, yes.**

10 Q. And interviewed, right?

11 **A. Yes.**

12 Q. Now, do you recall that these screeners and
13 screening supervisors had to undergo recertification
14 tests in November 2003?

15 **A. They're required by law to pass**
16 **recertification yearly, once a year.**

17 Q. Do you know who did the recertification
18 tests?

19 **A. These were contractors through TSA.**

20 Q. Were you present when the recertification
21 tests were done on the screeners?

22 **A. No. When you say present, you mean --**

23 Q. There, watching.

24 **A. In the room, watching?**

25 Q. Yeah, watching.

1 Q. You didn't give them to your predecessors?

2 **A. No.**

3 MR. HELPER: Successor?

4 Q. (Ms. Barbee): Successor. You didn't give
5 them to your attorneys?

6 **A. No.**

7 Q. Do you recall where the testers came from?

8 **A. No.**

9 Q. You were informed Mr. Ware failed the
10 recertification test, right?

11 **A. Yes.**

12 Q. Who informed you?

13 **A. Screening manager Warren Katakawa.**

14 Q. What did you tell him after Mr. Katakawa
15 informed you that Mr. Ware did not pass the test?

16 **A. I believe I told him to place Mr. Ware on**
17 **administrative leave. I'm sorry. Are you speaking**
18 **about the first time or his second?**

19 Q. Well, let's talk about them both. What
20 about the first time?

21 **A. The first time what happens is he gets to**
22 **go back to the check point and so he retested the**
23 **following day. The time that he fails the first,**
24 **when he goes back to the checkpoint, he cannot**
25 **perform any of his duties as a supervisor, so we**

1 **A. No.**

2 Q. And I think you mentioned before, screening
3 managers don't have to go through recertification
4 tests?

5 **A. Correct.**

6 Q. Just screeners and supervisors, right?

7 **A. Yes.**

8 Q. Did you meet any of the testers?

9 **A. We met the contractors before they came in,**
10 **yes, the day before they started recertification.**

11 Q. Do you recall their names?

12 **A. No.**

13 Q. How many were there?

14 **A. Between three or four, I believe. Not**
15 **quite certain.**

16 Q. Were they male?

17 **A. I believe there was one female.**

18 Q. Did they give you business cards?

19 **A. They may have.**

20 Q. Where would you keep these business cards?

21 **A. In my office.**

22 Q. You're no longer working there. Did you
23 take all of your business cards with you when you
24 left?

25 **A. I threw them all away.**

1 found something else for him to do during that day,
2 and then the following day he would go back into
3 recertification.

4 **Now, after his second failure, I was**
5 **notified, and he was placed on administrative leave**
6 **immediately.**

7 Q. And did you write him a notice of proposed
8 termination?

9 **A. Yes, I did.**

10 **(Exhibit 9 was marked for identification.)**

11 Q. This is Exhibit 9. Did you talk with any
12 testers to find out what portion of the test
13 Mr. Ware failed?

14 **A. No.**

15 Q. Did you ask any questions about the
16 recertification test, whether it had been approved
17 by Washington or anything about the recertification
18 test?

19 **A. No.**

20 Q. Did you see anybody perform the
21 recertification test?

22 **A. No.**

23 Q. Do you know how long the recertification
24 test took?

25 **A. Per individual?**

77

1 Q. Yes.
 2 **A. No.**
 3 Q. Were you aware that Mr. Ware passed the
 4 written portion of the recertification test?
 5 **A. No.**
 6 Q. Did any other screening supervisor fail the
 7 test?
 8 **A. When? When are you talking about?**
 9 Q. The time the test was done was
 10 November 2003, right?
 11 **A. That's the second time we went through**
 12 **recertification.**
 13 Q. When was the first?
 14 **A. I think it was the second. 2003 October.**
 15 **Okay. That may have been the first. But there was**
 16 **another supervisor that did fail.**
 17 Q. Was it Richard Kidani?
 18 **A. Richard Kidani.**
 19 Q. Was Richard Kidani terminated?
 20 **A. Yes.**
 21 Q. Was he terminated immediately?
 22 **A. If I can recall, I don't believe he was.**
 23 Q. Why not?
 24 **A. I think he submitted a rebuttal.**
 25 Q. How soon after he failed the test was he

78

1 terminated?
 2 **A. That, I'm not sure.**
 3 Q. Were you aware that Mr. Ware submitted a
 4 rebuttal to his termination?
 5 **A. No.**
 6 Q. Was there another opportunity -- was there
 7 another vacancy for screening manager in November of
 8 2003?
 9 MR. HELPER: I'm going to object to
 10 "opportunity" as vague.
 11 **A. I'm not sure.**
 12 Q. (Ms. Barbee): Did you hire anybody else
 13 for screening manager after October -- I mean,
 14 sorry, after August 2003?
 15 **A. I'm not sure.**
 16 Q. Was it still part of your duties to select
 17 people for screening manager?
 18 **A. Yes.**
 19 Q. Were there other vacancies for screening
 20 manager after August 2003?
 21 **A. I would need to refer to paperwork to tell**
 22 **you that, I'm not sure.**
 23 Q. In your declaration concerning Mr. Ware you
 24 make reference to complaints about Mr. Ware being on
 25 the cell phone for personal business.

79

1 **A. Yes.**
 2 Q. Who told you this?
 3 **A. One of the screening managers. I think it**
 4 **was either Robin Wong or Lizzet Haneberg. I can't**
 5 **recall which one.**
 6 Q. Would you agree that there's nothing in
 7 his, in writing in his file stating that he had been
 8 on the phone, cell phone for personal business?
 9 **A. At what time?**
 10 Q. At all. There's nothing in writing in his
 11 personnel file or disciplinary file.
 12 MR. HELPER: Let me object. The documents
 13 speak for themselves.
 14 **A. I was told orally by one of the managers.**
 15 Q. (Ms. Barbee): So that I take it that's a
 16 yes, that there's nothing in writing about that?
 17 MR. HELPER: Same objection.
 18 **A. Yes.**
 19 Q. (Ms. Barbee): When passengers complain
 20 about a screener, are those complaints documented
 21 anywhere?
 22 MR. HELPER: Objection. Overbroad, lacks
 23 foundation.
 24 **A. We have a passenger complaint form that can**
 25 **be filled out.**

80

1 Q. (Ms. Barbee): What happens when those
 2 complaint forms are filled out?
 3 **A. Goes to the managers.**
 4 Q. Are these complaints placed in the
 5 disciplinary file of the screeners?
 6 **A. I'm not sure.**
 7 Q. Are these complaints kept by TSA?
 8 MR. HELPER: Same objection.
 9 **A. They should be.**
 10 Q. (Ms. Barbee): Who would have these
 11 complaints?
 12 **A. The managers.**
 13 Q. Do the managers have a file on the
 14 screeners that is separate from your files?
 15 **A. Yes.**
 16 Q. Where are these files kept, the managers
 17 files?
 18 **A. You would need to ask the managers.**
 19 Q. Do you know where your managers keep their
 20 files on the screeners?
 21 **A. I have no idea.**
 22 Q. Did you ever ask the managers during your
 23 meetings with them where they kept their files?
 24 **A. No.**
 25 Q. When you decide -- Do you need a break or

81

1 anything? I get like that, too, so.

2 MR. HELPER: Can we go off the record?

3 MS. BARBEE: Off the record.

4 (Recess taken.)

5 Q. (Ms. Barbee): I last asked you where the
6 documents showing passenger complaint forms were
7 filed and you stated the managers would do the
8 filing, right?

9 **A. It's the managers' responsibility to keep
10 it on file.**

11 Q. When you meet with a screener who has a
12 complaint about lack of promotion, do you request
13 from the manager the complaints written by
14 passengers?

15 **A. No.**

16 Q. And what's the reason for not requesting
17 these written complaints?

18 **A. It would normally just go into the
19 disciplinary file.**

20 Q. Would the complaints be in the disciplinary
21 file?

22 **A. Not the forms. I mean if there was an
23 investigation that was conducted because of it, or
24 if the manager did a write up or any counseling,
25 whether it be oral or verbal, it would be in the**

82

1 **file.**

2 Q. But not the actual passenger complaint?

3 **A. No.**

4 Q. And so you don't know where those passenger
5 complaints would be located?

6 **A. No.**

7 Q. Right?

8 **A. No, I don't.**

9 Q. You are no longer working at TSA Honolulu?

10 **A. No.**

11 Q. What is the reason why?

12 **A. I've been removed.**

13 Q. Who removed you?

14 **A. Dennis Clark.**

15 Q. What is Dennis Clark's position?

16 **A. He's no longer with TSA, but at the time he
17 was the area director, western area director.**

18 Q. Do you know where he is now?

19 **A. He works for Akal Security.**

20 Q. Akal?

21 **A. Yes.**

22 Q. What is his position there?

23 **A. I have no idea.**

24 Q. Is it in Honolulu?

25 **A. No.**

83

1 Q. Do you know where, what city?

2 **A. I'm not sure. It might be with the New
3 Mexico office.**

4 Q. Did he tell you the reason why you were
5 removed?

6 MR. COLE: I'm going to object. Instruct
7 the witness not to answer.

8 MS. BARBEE: And what is your grounds for
9 objection?

10 MR. COLE: Privacy Act.

11 MS. BARBEE: Privacy Act in what?

12 MR. COLE: This is a matter that's under
13 review at this time. It's not a matter of public
14 information and I object to this line of
15 questioning.

16 Q. (Ms. Barbee): You filed an MSPB complaint,
17 correct?

18 **A. Yes.**

19 Q. And an EEO complaint?

20 **A. Yes.**

21 Q. And did you state the reasons why you felt
22 you were unfairly terminated in these documents?

23 **A. Yes.**

24 Q. What is the reason why you felt you were
25 unfairly terminated?

84

1 MR. COLE: I'm going to object.

2 MS. BARBEE: Those documents aren't subject
3 to privacy.

4 THE WITNESS: It's not public yet.

5 MR. COLE: I don't think they're public
6 documents. And if they've been turned over, I'd
7 like them back. I don't know that that's something
8 that -- it certainly wasn't something that we were
9 consulted on.

10 MR. HELPER: We have not, just so the
11 record's clear, as far as I'm aware, the government
12 has not disclosed any of the documents from
13 Mr. Kamahele's complaints in this litigation.

14 MS. BARBEE: Okay.

15 MR. COLE: And those are matters, to my
16 understanding, are not public information and, you
17 know, until further --

18 MS. BARBEE: Court order or something.

19 MR. COLE: Yes. I'm not going to allow any
20 inquiry into that subject area.

21 Q. (Ms. Barbee): Okay. Mr. Kamahele, you are
22 aware that there was an investigation done on TSA
23 right before you were terminated, correct?

24 **A. An investigation done on TSA?**

25 Q. Honolulu.